

In light of the current public health crisis and the Federal, State and County Emergency Declarations, and in accord with the provisions of Sec. 610.020, RSMo., the Board of Aldermen recognizes that it would be dangerous and impractical, if not impossible, for its meeting to be physically accessible to the public. The Board also recognizes the need for the public's business to be attended to in order to protect the public health, safety and welfare. In order to balance both the need for continuity of government and protection of the health and safety of our residents, business persons and employees, this meeting of the Board of Aldermen will not be open to public attendance in person. The meeting will be accessible by the public in real time ONLY by following the instructions in the box below.

You are invited to a Zoom webinar.

When: May 12, 2020 6:30 PM Discussion Session; 7:00 P.M. Meeting

Topic: 05/12/2020 Board of Aldermen Meeting.

Please click this URL to join

<https://us02web.zoom.us/j/87555500983>

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 929 205 6099 or +1 301 715 8592 or +1 312 626 6799 or +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799

Webinar ID: 875 5550 0983

International numbers available: <https://us02web.zoom.us/j/87555500983>

Persons interested in making their views known on any matter on the agenda should send an email with their comments to the City Clerk at jfrazier@claytonmo.gov. All comments received will be distributed to the entire Board before the meeting.

Thank you for your understanding and patience as we all try to get through these difficult and dangerous times.

**CITY OF CLAYTON BOARD OF ALDERMEN
DISCUSSION SESSION
TUESDAY, MAY 12, 2020
VIRTUAL ZOOM MEETING
CLAYTON, MO 63105
6:30 P.M.**

1. Forsyth Pointe - Forsyth Lane Configuration Options.

**CITY OF CLAYTON BOARD OF ALDERMEN
TUESDAY, MAY 12, 2020
VIRTUAL ZOOM MEETING
CLAYTON, MO 63105
7:00 P.M.**

ROLL CALL

MINUTES – April 28, 2020

PUBLIC REQUESTS & PETITIONS

CITY MANAGER REPORT

1. Ordinance – To approve a Memorandum of Agreement with the Missouri Department of Transportation for the purchase of a breath alcohol instrument. (Bill No. 6798)
2. Resolution – To request CARES ACT stimulus funds for municipal public safety expenses. (Res. No. 2020-08)
3. Motion – To appoint members to the Steering Committee for the Downtown and CBD Core Overlay Districts Study.
4. Appeal – ARB Decision for 8155 Stratford Avenue.

ADJOURNMENT

Subject to a motion duly made in open session and a roll call vote pursuant to Section 610.022 the Board of Aldermen may also hold a closed meeting, with a closed vote and record for one or more of the reasons as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, negotiation of a contract pursuant to Section 610.021(12) RSMO., proprietary information pursuant to Section 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO.

Forsyth Lane Configuration Options

8049 Forsyth - Forsyth Pointe

Traffic Study - Phase 1 & 2

- Build Condition - results in increase in WB Forsyth que during PM peak (portion attributed to lane reductions on Maryland Ave.)
 - Que contained within block for build condition, but the addition of phase 2 will cause ques to more frequently block the alley.
- 20 YR Build/No-Build - ques extend beyond Meramec intersection.
 - The 20 YR build condition for phase 1 & 2 begin to approach the Central intersection and would impact other entrances.
- 20 YR Build w/Improvements (left turn lane)
 - Improvements contain que within block
- Left turn lane WB Forsyth to SB Brentwood recommended by study.

Table 2: Traffic Operating Conditions – Base Traffic Volumes (Continued)

Intersection/Approach	AM Peak Hour	PM Peak Hour
<i>Forsyth Boulevard and Brentwood Boulevard – Signalized</i>		
Eastbound Forsyth Boulevard	B (15.0) 125' TH	B (14.0) 315' RT
Westbound Forsyth Boulevard	C (29.4) 135' TH	C (33.4) 315' TH
Northbound Brentwood Boulevard	C (25.6) 525' LT	C (28.8) 300' LT
Southbound Brentwood Boulevard	D (46.2) 80' TH	D (44.2) 245' TH
Overall Intersection	C (24.7)	C (28.2)

Table 5: Traffic Operating Conditions – Build Traffic Volumes Phase 1&2 (Continued)

Intersection/Approach	AM Peak Hour		PM Peak Hour	
	Phase 1	Phase 1 & 2	Phase 1	Phase 1 & 2
<i>Forsyth Boulevard and Brentwood Boulevard – Signalized</i>				
Eastbound Forsyth Boulevard	B (15.6) 135' TH	B (16.1) 145' TH	B (14.9) 330' RT	B (16.1) 330' RT
Westbound Forsyth Boulevard	C (29.1) 155' TH	C (28.1) 155' TH	C (34.5) 340' TH	D (39.4) 390' TH
Northbound Brentwood Boulevard	C (29.8) 525' LT	C (29.8) 525' LT	C (33.6) 335' LT	C (35.2) 355' LT
Southbound Brentwood Boulevard	D (44.6) 85' TH	D (41.2) 85' TH	D (47.9) 275' TH	D (50.7) 310' TH
Overall Intersection	C (26.8)	C (26.8)	C (31.1)	C (33.9)

Table 5: Traffic Operating Conditions – 20-Year No-Build and 20-Year Build Traffic Volumes (Continued)

Intersection/Approach	AM Peak Hour			PM Peak Hour		
	20-Year No-Build	20-Year Build – Phase 1	20-Year Build – Phase 1 & 2	20-Year No-Build	20-Year Build – Phase 1	20-Year Build – Phase 1 & 2
<i>Forsyth Boulevard and Brentwood Boulevard – Signalized</i>						
Eastbound Forsyth Boulevard	C (20.2) 230' TH	C (20.9) 245' TH	C (21.9) 270' TH	B (15.5) 365' RT	B (17.6) 385' RT	B (18.7) 405' RT
Westbound Forsyth Boulevard	C (27.1) 160' TH	C (29.9) 160' TH	C (30.5) 165' TH	D (54.4) 575' TH v/c = 0.97	E (67.4) 615' TH v/c = 1.02	F (101.8) 710' TH v/c = 1.13
Northbound Brentwood Boulevard	C (25.6) 525' LT	C (29.7) 525' LT	C (30.5) 525' LT	D (39.6) 380' LT v/c = 0.97	D (48.1) 410' LT v/c = 1.01	D (53.2) 430' LT v/c = 1.06
Southbound Brentwood Boulevard	D (45.3) 80' TH	D (43.6) 85' TH	D (43.6) 85' TH	D (48.0) 250' TH	D (52.4) 285' TH	E (58.3) 330' TH
Overall Intersection	C (25.2)	C (27.6)	C (28.4)	D (38.5)	D (46.2)	E (60.3)

Table 8: Traffic Operating Conditions – 20-Year Build Traffic Volumes with Improvements

Intersection/Approach	AM Peak Hour		PM Peak Hour	
	20-Year Build Phase 1 Improved	20-Year Build Phase 1 & 2 Improved	20-Year Build Phase 1 Improved	20-Year Build Phase 1 & 2 Improved
<i>Forsyth Boulevard and Brentwood Boulevard – Signalized</i>				
Eastbound Forsyth	C (21.2) 260' TH	C (21.1) 260' TH	C (30.7) 435' RT	D (40.2) 475' RT
Westbound Forsyth	C (24.4) 125' TH	C (24.4) 125' TH	C (24.3) 295' LT v/c = 0.86	C (33.6) 425' LT v/c = 0.98
Northbound Brentwood	C (24.0) 345' LT	C (21.7) 345' LT	D (43.5) 375' LT v/c = 0.89	D (46.1) 400' LT v/c = 0.92
Southbound Brentwood	D (28.8) 90' TH	D (28.8) 90' TH	D (47.0) 275' TH	D (52.8) 330' TH
Overall Intersection	C (23.4)	C (22.3)	C (34.6)	D (41.6)

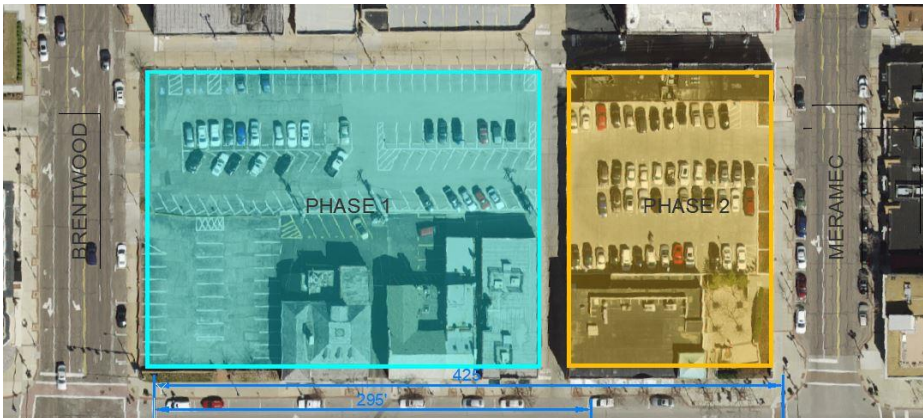


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Overall Intersection	C (26.8)	C (26.8)	C (31.1)	C (33.9)

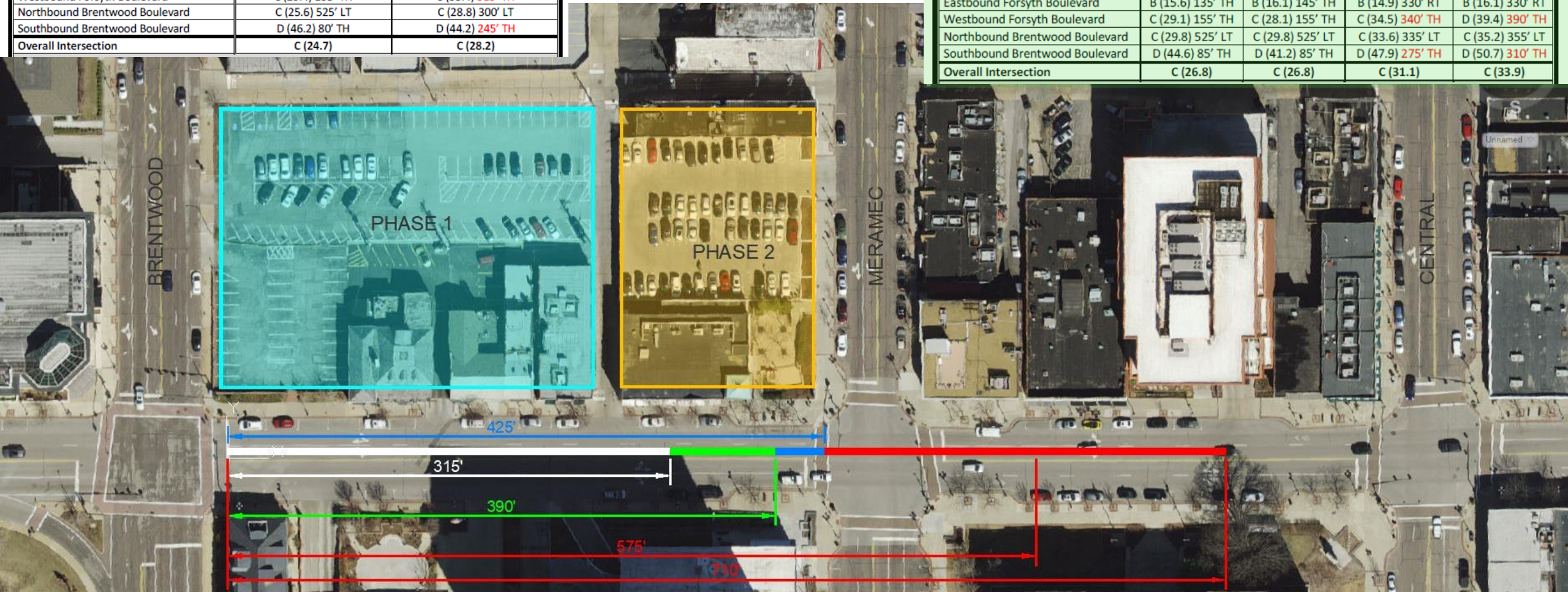
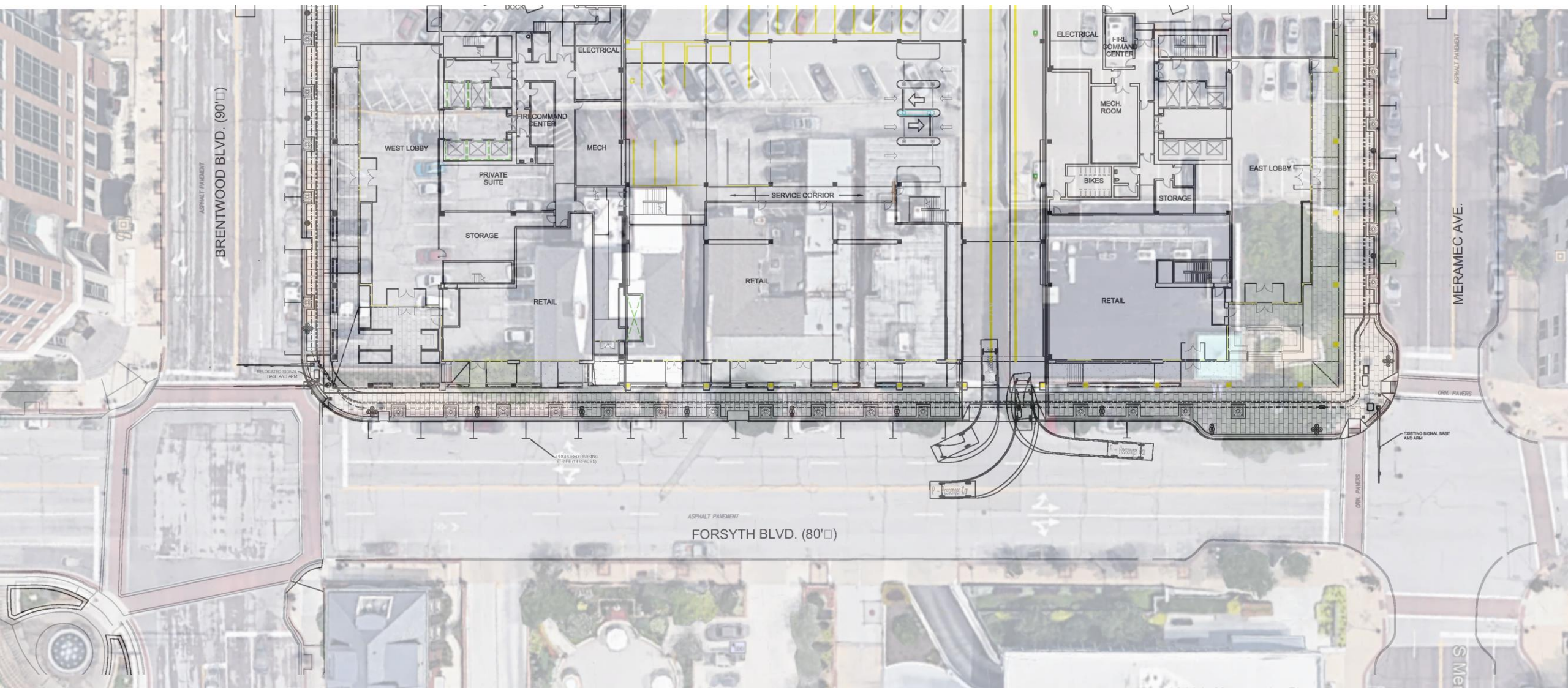


Table 5: Traffic Operating Conditions – 20-Year No-Build and 20-Year Build Traffic Volumes (Continued)

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<i>Forsyth Boulevard and Brentwood Boulevard – Signalized</i>						
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Overall Intersection	C (25.2)	C (27.6)	C (28.4)	D (38.5)	D (46.2)	E (60.3)

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Southbound Brentwood	D (28.8) 90' TH	D (28.8) 90' TH	D (47.0) 275' TH	D (52.8) 330' TH
Overall Intersection	C (23.4)	C (22.3)	C (34.6)	D (41.6)



Option 1 (existing lanes)

Developer Comments

- Option 1 is preference of developer
 - Staff asked Developer to provide comment related to the developed option. Developer has verbally indicated it is their preference to leave the lane configuration as is and maintain parking on the north side of Forsyth.

Staff Recommendation

- Option 2
 - Provides left turn lane for WB Forsyth at Brentwood to address projected traffic issues.
 - Eliminates parking on north side, but maintains curb line and building location.
 - Align and established curb along development and to the east for future modifications that may be needed beyond this block.

Questions?



May 8, 2020

Spencer Litteken
Civil Engineer, E.I.T.
City of Clayton, Public Works

RE: Roadway Design of Forsyth Blvd. between Brentwood Blvd & Meramec Ave.

Dear Spencer:

US Capital Development & Commerce Bank are forwarding the correspondence to officially convey their joint opinion on the elimination of on street parking along Forsyth Blvd to accommodate lane reconfiguration along the same segment. Both property owners, collectively, are strongly opposed to the lane reconfigurations of Forsyth Blvd. provided by CBB on April 15th. (Options 7A & 7B) USCD and Commerce Bank are jointly developing the Forsyth Pointe project and will have a long-term and significant position on this portion of Forsyth Blvd.

USCD and Commerce Bank have consistently communicated with the City of Clayton and CBB that we believe it is best to maintain on-street parking along Forsyth Boulevard and Brentwood Boulevard to maintain an active, and vibrant street-scape for pedestrians. Our preference would be to maintain the existing roadway configuration, including on-street parking. In fact, every presentation, exhibit and renderings of the Forsyth Pointe development for the past 24 months, has reflected maintaining the on-street parking.

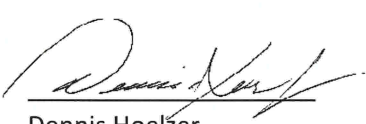
We are confident that the removal of on-street parking will create an unsafe environment for pedestrians walking along Forsyth and Brentwood, as cars will drive at much higher speeds – abutting the recently approved pedestrians areas contained in the Forsyth Pointe development.

The City of Clayton's Master Plan specifically calls for an active and vibrant pedestrian node in this part of downtown – and the proposed lane reconfiguration will eliminate the ability for pedestrians to easily park and interact with the businesses and park located nearby.

We hope that the City stays true to the Master Plan, and maintains the on-street parking.

Sincerely,


Scott Haley
Managing Director of Development,
US Capital Development


Dennis Hoelzer
Commerce Bank

THE CITY OF CLAYTON

Board of Aldermen
City Hall – 10 N. Bemiston Avenue
April 28, 2020
7:011 p.m.

Minutes

NOTE: In accord with the provisions of Section 610.015, RSMo., and multiple declarations of emergency at every level of government, and the prohibition on gatherings of 10 or more persons due to the Coronavirus pandemic, normal requirements for voting in the Board meeting were suspended. Accordingly, votes were taken as if all Board members were physically present and in attendance at the meeting.

Mayor Harris called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Mark Winings, Joanne Boulton, Rich Lintz, Ira Berkowitz, Bridget McAndrew, and Susan Buse.

Mayor Harris
City Manager Gipson
City Attorney O'Keefe

Motion made by Alderman Lintz to approve the April 14, 2020 minutes. Alderman Boulton seconded.

Motion to approve the minutes passed unanimously on a voice vote.

PUBLIC REQUESTS AND PETITIONS

None

PUBLIC HEARING & A RESOLUTION - CONDITIONAL USE PERMIT FOR 125 HUNTER AVENUE

Mayor Harris opened the public hearing and requested proof of publication.

City Manager Gipson reported that this is a request for Conditional Use Permit approval to allow an auto repair shop at 125 Hunter Avenue to be known as Caliber Collision Centers. the property, which has a zoning designation of S-1 Service District, contains a 13,195 square-foot commercial style building with 8 interior garage bays and a 56-space surface parking lot that is fenced on 3 sides. The property is adjacent to I-170 to the west; a 2-story office building to the north; and the Hunter Avenue right-of-way and landscaped open areas associated with a 4-story office building to the south and east. In 2015, the Board of Aldermen approved a Conditional Use Permit for Abra Autobody and Glass. Abra has since merged with Caliber Holdings Corporation and will now being doing business as Caliber Collisions Centers.

In response to the Board's questions, Susan Istenes, Director of Planning confirmed that the business will keep the same hours as the previous business.

Allison Mathern, representative of Caliber Collision Centers, joined the meeting to answer questions.

In response to Alderman Lintz' question regarding the screened dumpster area, Ms. Mathern confirmed that they have discussed the issue with the Center staff and also with Waste Management to ensure that the fences for the enclosure will remain closed at all times.

Mayor Harris closed the public hearing.

Motion made by Alderman Winings to approve Resolution No. 2020-03, granting a Conditional Use Permit to Caliber Collision Centers located at 125 Hunter Avenue. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

PUBLIC HEARING & A RESOLUTION - CONDITIONAL USE PERMIT FOR PERFORMANCE LAB, LLC – 8009, 8011 & 8013 MARYLAND AVENUE

Mayor Harris opened the public hearing and requested proof of publication.

City Manager Gipson reported that this is a public hearing and subsequent resolution to consider granting a conditional use permit to operate a fitness center. A conditional use permit is required in the C-2 Zoning District for fitness centers/health clubs.

On March 11, 2020, Mr. David Lazaroff, owner of Performance Lab, LLC, requested a conditional use permit to continue operation of the existing business located at 8009, 8011, and 8013 Maryland Avenue under a new name and ownership.

Mr. David Lazaroff, owner, joined the meeting to answer any questions.

In response to Alderman Buse's question regarding parking, Susan Istenes explained that due to the proposed use being the same as the existing use of the site, no additional parking is required.

Mayor Harris closed the public hearing.

Motion made by Alderman Winings to approve Resolution No. 2020-04, granting a Conditional Use Permit for Performance Labs LLC located at 8009, 8011, and 8013 Maryland Avenue. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

PUBLIC HEARING & RESOLUTION - A CONDITIONAL USE PERMIT FOR TONY'S RESTAURANT LOCATED AT 105 CARONDELET PLAZA

Mayor Harris opened the public hearing and requested proof of publication.

City Manager Gipson reported that this is a public hearing to consider an application for a Conditional Use Permit submitted by James Bommarito, restaurant owner, to allow the operation of a 7,890 square foot restaurant on the first and second floors of the subject mixed-use building addressed as 7620 Forsyth Boulevard, commonly known as Centene Plaza, Tower C, at a location designated as 105 Carondelet Plaza to be known as Tony's.

Tony Raya, HOK, Project Architect and Paul Bentel, HOK, joined the meeting and provided the Board with a *PowerPoint* presentation on the proposed project. Mr. Bentel pointed out to the Board the proposed operation of the valet service. He also noted that Tony's will operate the same (business, lunch, and dinner hours) as they had done at their downtown restaurant.

Mayor Harris closed the public hearing.

Motion made by Alderman Winings to approve Resolution No. 2020-05, granting a Conditional Use Permit for Tony's located at 105 Carondelet Plaza. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

PUBLIC HEARING & ORDINANCE - SUBDIVISION PLAT (LOT CONSOLIDATION) FOR 114, 124, AND 134 GAY AVENUE

Mayor Harris opened the public hearing and requested proof of publication.

City Manager Gipson reported that this is a public hearing and subsequent ordinance to consider approving a subdivision plat for the consolidation of four (4) lots to create two (2) lots. All lots are zoned R-4 Low Density Multiple Family Dwelling District.

On February 11, 2020, the City of Clayton received an application and plat from Mike Manlin of Manlin Development Group, on behalf of Bartlett Holdings Clayton, LLC, owner, requesting to consolidate four (4) existing lots addressed 114 Gay Avenue (Lot 8), 124 Gay Avenue (Lot 9 and Lot 10), and 134 Gay Avenue (Lot 11) in the Clayton Gardens No. 4 Subdivision. The proposed plat will consolidate Lot 8 (7,411 square feet), Lot 9 and Lot 10 (14,925 square feet) and Lot 11 (7,511 square feet) resulting in two new lots; one measuring 14,959 square feet (Lot A) and the other measuring 14,888 square feet (Lot B), totaling 29,847 square feet.

Ryan Meeks, THG Design Group, joined the meeting to answer questions.

Mayor Harris closed the public hearing.

Alderman Winings introduced Bill No. 6794, an ordinance to approve a subdivision plat for 114, 124, and 134 Gay Avenue to be read for the first time by title only. Alderman Boulton seconded.

City Attorney O'Keefe reads Bill No. 6794, first reading, an Ordinance Providing for the Approval of a Plat to Consolidate Certain Property Located on Gay Avenue in the City of Clayton, Missouri by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6794 on the day of its introduction. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

Alderman Winings introduced Bill No. 6794, an ordinance to approve a subdivision plat for 114, 124, and 134 Gay Avenue to be read for the second time by title only. Alderman Boulton seconded.

City Attorney O'Keefe reads Bill No. 6794, second reading, an Ordinance Providing for the Approval of a Plat to Consolidate Certain Property Located on Gay Avenue in the City of Clayton, Missouri by title only.

The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; Alderman Buse – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6654 of the City of Clayton.

ORDINANCE - A CONDOMINIUM PLAT FOR PROPERTIES ADDRESSED 114, 116, 118, 120, AND 122 (BUILDING A) AND 126, 128, 130, 132, AND 134 (BUILDING B) GAY AVENUE

City Manager Gipson reported that this is a public hearing and subsequent ordinance to consider approving a subdivision plat for the consolidation of four (4) lots to create two (2) lots. All lots are zoned R-4 Low Density Multiple Family Dwelling District.

On February 11, 2020, the City of Clayton received an application and plat from Mike Manlin of Manlin Development Group, on behalf of Bartlett Holdings Clayton, LLC, owner, requesting to consolidate four (4) existing lots addressed 114 Gay Avenue (Lot 8), 124 Gay Avenue (Lot 9 and Lot 10), and 134 Gay Avenue (Lot 11) in the Clayton Gardens No. 4 Subdivision. The proposed plat will consolidate lot 8 (7,411 square feet), lot 9 and lot 10 (14,925 square feet) and lot 11 (7,511 square feet) resulting in two new lots; one measuring 14,959 square feet (lot a) and the other measuring 14,888 square feet (lot b), totaling 29,847 square feet.

Ryan Meeks addressed the Board to answer questions.

In response to Alderman McAndrew's question regarding the issue with the wall, Alderman Lintz confirmed that the issue has been resolved and that the developer and the neighbor have reached an agreement.

Alderman Winings introduced Bill No. 6795, an ordinance to approve a condominium plat for properties addressed 114, 116, 118, 120, and 122 (Building A) and 126, 128, 130, 132, and 134 (Building B) Gay Avenue to be read for the first time by title only. Alderman Boulton seconded.

City Attorney O'Keefe reads Bill No. 6795, first reading, an Ordinance Providing for the Approval of a Plat to Consolidate Certain Property Located on Gay Avenue in the City of Clayton, Missouri by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill No. 6795 on the day of its introduction. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

City Attorney O'Keefe noted that there was a typo in the title of the ordinance.

Alderman Winings introduced Bill No. 6795, an ordinance to approve a condominium plat for properties addressed 114, 116, 118, 120, and 122 (Building A) and 126, 128, 130, 132, and 134 (Building B) Gay Avenue to be read for the second time by title only. Alderman Boulton seconded.

Attorney O'Keefe reads Bill No. 6795, second reading, an Ordinance Providing for the Approval of a Plat to Consolidate Certain Property Located on Gay Avenue in the City of Clayton, Missouri by title

The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; Alderman Buse – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6655 of the City of Clayton.

AN ORDINANCE APPROVING A CONTRACT WITH HABERBERGER INC. FOR THE 10 N. BEMISTON BOILER AND CHILLER REPLACEMENTS

City Manager Gipson reported that the Public Works Department is requesting approval of a construction contract for the 10 N. Bemiston boiler and chiller replacements with Haberberger Inc. The scope of the work includes replacing a boiler, chiller and associated appurtenances at the 10 N. Bemiston facility. The bids included alternates for replacing the boiler flue, a second chiller, chiller piping and a deduct to reuse existing conduit and wiring if needed.

The city received six (6) bids with Haberberger, Inc. submitting the lowest base bid of \$132,900.00.

Recommendation is to approve the ordinance authorizing a contract with Haberberger, Inc. in the amount of \$132,900.00 plus authorization to approve change orders in an amount not to exceed \$64,000 for a total of \$194,900.00.

Matt Malick, Director of Public Works, joined the meeting to answer questions. In response to Mayor Harris' question, Matt confirmed that the work would alleviate the HVAC issues that the Fire Department had been experiencing in previous years.

John Wulf, Assistant Director of Public Works, joined the meeting to answer questions.

In response to Alderman Lintz' question, Matt noted that there are few bidders that are qualified to do the work.

Alderman Winings introduced Bill No. 6796, an ordinance to approve a contract with Haberberger, Inc. for the boiler/chiller replacements to be read for the first time by title only. Alderman Boulton seconded.

City Attorney O’Keefe reads Bill No. 6796, first reading, an Ordinance Approving a Contract with Haberberger, Inc. for the 10 N. Bemiston Boiler and Chiller Replacements by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Winings that the Board give unanimous consent to consideration for adoption of Bill N. 6796 on the day of its introduction. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

Alderman Winings introduced Bill No. 6796, an ordinance to approve a contract with Haberberger, Inc. for the boiler/chiller replacements to be read for the second time by title only. Alderman Boulton seconded.

City Attorney O’Keefe reads Bill No. 6796, second reading, an Ordinance Approving a Contract with Haberberger, Inc. for the 10 N. Bemiston Boiler and Chiller Replacements by title only.

Motion Passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; Alderman Buse – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6656 of the City of Clayton.

Alderman Winings recused himself from the meeting at 7:53 p.m.

AN ORDINANCE AMENDING ORDINANCE NO. 6648 RELATING TO PLATTING REQUIREMENTS FOR THE FORSYTH POINTE PLANNED UNIT DEVELOPMENT

City Manager Gipson reported that Ordinance No. 6648 adopted on March 24, 2020 required the submission of a lot consolidation plat prior to the issuance of a building permit for the project. It is staff’s opinion that the nature of the approved Forsyth Pointe plan and project satisfy the public policy interest which would be served by consolidating the subject property into a single lot and makes the requirement unnecessary. In addition, staff believes that this proposed change to Ordinance No. 6648 does not modify any of the project characteristic affecting the criteria for PUD rezoning and plan approval. Furthermore, staff suggest that the recommended change is not a substantive change as it does not affect any of the public discussion undertaken on March 24, 2020 or discussions prior.

Staff does recommend that prior to the issuance of any occupancy permit for the project that the owners file documentation to be approve by the Director of Planning and Development Services which give reasonable assurance that the project will be operated and maintained in a unified and coordinated manner in accordance with all applicable City requirements.

Scott Haley, U.S. Capital Development, Tim Tryniecki, Armstrong Teasdale, and David Lemkemeier, Lewis Rice, joined the meeting to answer questions.

Alderman Boulton introduced Bill No. 6797, an ordinance to amend Ordinance NO. 6648 related to the platting requirements for the Forsyth Pointe PUD to be read for the first time by title only. Alderman Lintz seconded.

City Attorney O’Keefe reads Bill No. 6797, first reading, an Ordinance Amending Ordinance No. 6648 Relating to Platting Requirements for the Forsyth Pointe Planned Unit Development by title only.

The motion passed unanimously on a voice vote.

Motion made by Alderman Boulton that the Board give unanimous consent to consideration for adoption of Bill No. 6797 on the day of its introduction. Alderman Lintz seconded.

The motion passed unanimously on a voice vote.

Alderman Boulton introduced Bill No. 6797, an ordinance to amend Ordinance No. 6648 related to the platting requirements for the Forsyth Pointe PUD to be read for the second time by title only. Alderman Lintz seconded.

City Attorney O’Keefe reads Bill No. 6797, second reading, an Ordinance Amending Ordinance No. 6648 Relating to Platting Requirements for the Forsyth Pointe Planned Unit Development by title only.

Motion passed on a roll call vote: Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; Alderman Buse – Aye; and Mayor Harris – Aye. The bill, having received majority approval was adopted and became Ordinance No. 6657 of the City of Clayton.

Alderman Winings rejoined the meeting at 7:57 p.m.

RESOLUTION – APPROVING SUBMITTAL OF A HAZARDOUS MOVING VIOLATION ENFORCEMENT GRANT APPLICATION

City Manager Gipson reported that as part of the annual grant application process MODoT requires the City of Clayton Board approval and authorization. The Clayton Police Department intends to seek a MODoT grant to assist the department to address the issue of aggressive driving in a multifaceted approach.

Chief Smith joined the meeting providing an overview of the grant.

Motion made by Alderman Winings to approve Resolution No. 2020-06, authorizing submittal of a Hazardous Moving Violation Enforcement Grant application. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

RESOLUTION – APPROVING SUBMITTAL OF A DRIVING WHILE INTOXICATED ENFORCEMENT GRANT APPLICATION

Motion made by Alderman Winings to approve Resolution No. 2020-07, authorizing submittal of a Driving While Intoxicated Enforcement Grant application. Alderman Boulton seconded.

The motion passed unanimously on a voice vote.

Other

Alderman Lintz reported:

- Plan Commission/ARB met on April 20th; three house; two-teardowns; proposed plans for 8108 Kingsbury was tabled.

Mayor Harris reported:

- Community Equity Committee will meet April 30th via Zoom.

Motion made by Alderman Buse that the Board adjourn to a closed meeting, with a closed vote and record, as authorized by Section 610.021(1), (2) and (3) Revised Statutes of Missouri, relating to legal issues, real estate and/or personnel, and to discuss matters related to negotiation of a contract pursuant to Section 610.021(12), RSMo. and/or proprietary information pursuant to Sec. 610.021(15), and/or information related to public safety and security measures pursuant to Section 610.021(18) and (19) RSMO. Alderman McAndrew seconded the motion.

The motion passed on a roll call vote: Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Lintz – Aye; Alderman Berkowitz – Aye; Alderman McAndrew – Aye; Alderman Buse – Aye; and Mayor Harris – Aye.

There being no further regular business the meeting adjourned at 8:05 p.m.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER (DG)
CHIEF MARK SMITH, POLICE DEPARTMENT
DATE: MAY 12 2020
SUBJECT: ORDINANCE - A MEMORANDUM OF AGREEMENT BETWEEN THE
MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION AND
THE CITY OF CLAYTON

The Missouri Highways and Transportation Commission (the Commission) has set aside funding for the purchase of breath alcohol instruments in the State of Missouri. The breath alcohol instruments will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division. The breath alcohol instruments will be one of the instruments listed in the Missouri Department of Health and Senior Services (DHSS) Breath Alcohol Program requirements found in Section 19 CSR 25-30.050.

In order for the Clayton Police Department to submit a grant application for the breath alcohol instruments the City is required to comply with DHSS, Section 2 CFR 200.313, requiring that the inventory and disposition of such breath alcohol instruments must be tracked, therefore entering into the attached agreement.

STAFF RECOMMENDATION: To approve the ordinance authorizing the City Manager to execute an agreement.

BILL NO. 6798

ORDINANCE NO. ____

AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF AGREEMENT BETWEEN THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION (THE COMMISSION) AND THE CITY OF CLAYTON

WHEREAS, The Missouri Highways and Transportation Commission (the Commission) has set aside funding for the purchase of breath alcohol instruments in the State of Missouri. The breath alcohol instruments will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division and;

WHEREAS, the breath alcohol instruments will be one of the instruments listed in the Missouri Department of Health and Senior Services Breath Alcohol Program requirements found in 19 CSR 25-30.050; and

WHEREAS, in order for all parties to comply with 2 CFR 200.313 the inventory and disposition of such breath alcohol instruments must be tracked.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI AS FOLLOWS:

SECTION ONE:

The Board of Aldermen approves on behalf of the City a Memorandum of Agreement with The Missouri Highways and Transportation Commission in substantial conformity with the terms shown on Exhibit A attached hereto and incorporated herein by this reference as if set out here in full, together with such document changes as shall be approved by the officers of the City executing same which are consistent with the provisions and intent of this legislation and necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The Mayor, City Manager and other appropriate City officials are hereby authorized to execute the Agreement and such additional documents and take any and all actions necessary, desirable, convenient or prudent in order to carry out the intent of this legislation.

SECTION TWO: Effective Date

This Ordinance shall be in full force and effect from and after its passage.

PASSED by the Board of Aldermen this 12th day of May 2020.

Mayor

ATTEST:

City Clerk

CCO Form: HS05
Approved: 05/13 (ASB)
Revised: 09/17 (GJH)
Modified:

**MEMORANDUM OF AGREEMENT BETWEEN
THE MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION
AND CITY OF CLAYTON**

THIS MEMORANDUM OF AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter, "Commission") and City of Clayton (hereinafter, "City").

WHEREAS, the Commission has set aside funding for the purchase of breath alcohol instruments in the state of Missouri. These breath alcohol instruments will be purchased through the Alcohol Impaired Driving Countermeasure grant program with the Missouri Safety Center with grant funding provided by the Missouri Department of Transportation, Highway Safety and Traffic Division. The breath alcohol instruments will be one of the instruments listed in the Missouri Department of Health and Senior Services Breath Alcohol Program requirements found in 19 CSR 25-30.050; and

WHEREAS, in order for all parties to comply with 2 CRF 200.313 the inventory and disposition of such breath alcohol instruments must be tracked.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations in this Memorandum of Agreement (hereinafter, "Agreement"), the parties agree as follows:

(1) INSTRUMENT: The Missouri Safety Center will purchase and provide to the City breath alcohol instrument(s) to be used to obtain breath alcohol samples in Driving While Intoxicated ("DWI") cases.

(2) INVENTORY SYSTEM: Federal and State requirements, including but not limited to 2 CRF 200.313 mandate that the breath alcohol instrument(s) being purchased be placed in an inventory system. Periodic inventory checks will be made by the Commission and/or the Missouri Safety Center to determine that the instrument is still being used and is in good condition.

(3) DISPOSAL: Before a breath alcohol instrument may be disposed of the Missouri Safety Center and the City must notify the Commission in writing of the intent to dispose of the instrument. The Commission will then notify the National Highway Traffic Safety Administration ("NHTSA"). After NHTSA has approved the disposal of the instrument, the Commission will notify the Missouri Safety Center and City in writing of that decision.

(4) COMPLIANCE: The City shall remain compliant with all Missouri Department of Health and Senior Services Breath Alcohol Program requirements found in 19 CSR 25-30.011 through 19 CSR 25-30.080.

(5) QUALITY CONTROL: The City agrees to periodic quality control evaluations by the manufacturer of the instrument and/or the Missouri Safety Center. Such evaluations will occur at least once every two years.

(6) AVAILABILITY: Breath alcohol instruments will be made available for use by other law enforcement agencies in neighboring jurisdictions. Breath tests and observation periods shall be conducted by Type II or Type III qualified officers from the arresting (or neighboring) agency unless otherwise agreed upon by the City.

(7) COURT AVAILABILITY: The City agrees to make Type II permit holders available for court support to assist in DWI adjudication when needed.

(8) TYPE II: Prior to receipt of the new breath alcohol instrument and peripheral components, the appropriate officers within the City's department will complete the necessary Type II training. The City is responsible for developing and implementing a schedule for training its own Type III certified officers.

(9) RETURN INSTRUMENTS: The City shall return all breath alcohol instruments previously purchased under Highway Safety funding to the Missouri Safety Center within six months of receipt of the new breath alcohol instrument.

(10) DAMAGE: The City shall be responsible for the loss of, damage to, or destruction of the breath alcohol instruments purchased pursuant to this Agreement.

(11) REPAIRS: The City is responsible for maintaining the breath alcohol instrument keeping it in good working order and is responsible for any associated repair costs.

(12) RECALL: The Commission and the Missouri Safety Center, reserves the right to recall the breath alcohol instruments if the terms and conditions of this Agreement are not followed.

(13) AMENDMENTS: Any change in this Agreement, whether by modification or supplementation, must be accomplished by a formal contract amendment signed and approved by the duly authorized representatives of the City and the Commission.

(14) COMMISSION REPRESENTATIVE: The Commission's Director of Highway Safety is designated as the Commission's representative for the purpose of administering the provisions of this Agreement. The Commission's representative may designate by written notice other persons having the authority to act on behalf of the Commission in furtherance of the performance of this Agreement.

(15) LAW OF MISSOURI TO GOVERN: This Agreement shall be construed according to the laws of the State of Missouri. The City shall comply with all local, state and federal laws and regulations relating to the performance of this Agreement.

(16) VENUE: It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(17) PRODUCT AND CONTACT INFORMATION: Please indicate the breath instrument of choice:

☒ Intoximeter DMT

☐ Intoxilyzer 8000

☐ Intoximeter EC/IR II

Please indicate your point of contact for Type II Instrument Replacement:

Name: Officer Todd Shearrer

Phone: 314-645-3000

Email: tshearrer@claytonmo.gov

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have entered into this Agreement on the date last written below.

Executed by City of Clayton on _____ (Date).

Executed by Commission on _____ (Date).

MISSOURI HIGHWAYS AND
TRANSPORTATION COMMISSION

(Signature)

Title _____

ATTEST:

(Commission's Secretary)

APPROVED AS TO FORM:

(Commission Counsel)

CITY OF CLAYTON

By [Signature]
(Signature of authorizing official)

Title CITY MANAGER

ATTEST:

By [Signature]
(Signature of authorizing official)

Title CITY CLERK

APPROVED AS TO FORM:

By [Signature]
(Signature of agency legal counsel, if needed)

Title CITY ATTORNEY

Ordinance # _____

SEAL





City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER (DG)
DATE: MAY 12, 2020
SUBJECT: RESOLUTION - CARES ACT STIMULUS FUNDS FOR MUNICIPAL PUBLIC SAFETY EXPENSES

The United States Congress enacted the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act") providing a \$2 trillion dollars economic relief package to provide assistance for American workers, families, and small businesses; to provide assistance to state and local governments; and to preserve jobs for American industry.

The US Department of the Treasury distributed funds from the CARES Act proportionally based on 2019 census data directly to local governments, including directly to cities and counties with a population greater than 500,000 and directly to state governments. No municipality in St. Louis County (the "County") has received any CARES Act funds from the Federal government, the State of Missouri or the County.

St. Louis County received \$175 million directly from the United States Treasury designated to cover necessary expenses that are incurred due to the public health emergency caused by the COVID-19 pandemic. The Governor has recommended that counties that received funds directly from the State of Missouri in turn distribute CARES Act funds to local governments located within their jurisdictions.

The City of Clayton has incurred public safety payroll costs for fire, EMS and law enforcement during the Eligibility Period to date in the amount of \$1,206,107 for payroll and related fringe benefit costs and is estimated to incur a total of \$8,240,944 for these costs during the full Eligibility Period and all such costs are presumed by the US Department of the Treasury to be COVID related expenses during the Eligibility Period.

The \$175 million in CARES funding received by the County should justly be shared pro rata with municipalities based on their population inasmuch as all levels of government including both County and municipal governments who are incurring COVID related public safety expenses.

If any portion of the \$175 million in funding received by St. Louis County under the CARES Act is expended by the St. Louis County Executive as reimbursement for law enforcement expenses, including but not limited to payroll and benefits for the St. Louis County Police Department during the Eligibility Period, a proportional amount should be paid to the municipalities who provide the majority of law enforcement services to the citizens of St. Louis County. Further, such reimbursement for public safety expenses should necessarily include all municipal law enforcement, ems and fire services whether those services are provided directly by the municipality or by contract with another public safety agency.

Recommendation is to approve the resolution.

RESOLUTION NO. 2020-08

A RESOLUTION REQUESTING THAT MUNICIPALITIES WITHIN ST. LOUIS COUNTY RECEIVE AN EQUITABLE DISTRIBUTION OF THE \$175 MILLION IN FUNDING RECEIVED BY ST. LOUIS COUNTY FROM THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT TO REIMBURSE MUNICIPALITIES FOR ACTUAL PUBLIC SAFETY COSTS INCURRED RELATED TO COVID-19

WHEREAS, The United States Congress enacted the Coronavirus Aid, Relief and Economic Security Act (the “CARES Act”) providing a \$2 trillion dollars economic relief package to provide assistance for American workers, families, and small businesses; to provide assistance to state and local governments; and to preserve jobs for American industry; and

WHEREAS, the US Department of the Treasury distributed funds from the CARES Act proportionally based on 2019 census data directly to local governments, including directly to cities and counties with a population greater than 500,000 and directly to state governments; and

WHEREAS, the State of Missouri received \$1.9 billion dollars from The CARES Act, a portion of which was subsequently distributed in part to Missouri counties proportionally based on population, except those counties that received a direct payment under the CARES Act, along with a recommendation from the Governor that counties that received funds directly from the State of Missouri in turn distribute CARES Act funds to local governments located within their jurisdictions; and

WHEREAS, no municipality in St. Louis County (the “County”) has received any CARES Act funds from the Federal government, the State of Missouri or the County; and

WHEREAS, Based on St. Louis County’s population numbers, which necessarily includes the residents of municipalities located in the County, the County received \$175 million directly from the United States Treasury designated to cover necessary expenses that are incurred due to the public health emergency caused by the COVID-19 pandemic; and

WHEREAS, the County Council has appropriated the entirety of the \$175 million in funding from The CARES Act and has given the County Executive absolute authority over use and distribution of these funds without further review or oversight by the County Council; and

WHEREAS, the US Department of the Treasury has issued eligibility guidelines for use of the CARES Act funds which includes, in part, that payroll expenses for public safety may be presumed to be costs for services substantially dedicated to mitigation or responding to the COVID-19 public health emergency from and after the effective date of The CARES Act from March 27, 2020 thru December 31, 2020 (the “Eligibility Period”); and

WHEREAS, the County does not provide any public safety fire services to the residents of St. Louis County; and

WHEREAS, the County provides non-contracted law enforcement services only to the unincorporated areas of the County, which makes up 32.15% of the County's total population; and,

WHEREAS, 67.85% of the residents of the County are serviced by municipal police departments or contracted law enforcement services paid for out of municipal funds; and,

WHEREAS, the City of Clayton has incurred public safety payroll costs for fire, EMS and law enforcement during the Eligibility Period to date in the amount of \$1,206,107 for payroll and related fringe benefit costs and is estimated to incur a total of \$8,240,944 for these costs during the full Eligibility Period and all such costs are presumed by the US Department of the Treasury to be COVID related expenses during the Eligibility Period; and

WHEREAS, the \$175 million in CARES funding received by the County should justly be shared pro rata with municipalities based on their population inasmuch as all levels of government including both County and municipal governments are incurring COVID related public safety expenses.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF CLAYTON, MISSOURI, AS FOLLOWS:

That if any portion of the \$175 million in funding received by St. Louis County under the CARES Act is expended by the St. Louis County Executive as reimbursement for law enforcement expenses, including but not limited to payroll and benefits for the St. Louis County Police Department during the Eligibility Period, a proportional amount should be paid to the municipalities who provide the majority of law enforcement services to the citizens of St. Louis County. Further, such reimbursement for public safety expenses should necessarily include all municipal law enforcement, ems and fire services whether those services are provided directly by the municipality or by contract with another public safety agency.

This Resolution passed and approved this 12th day of May 2020.

Mayor

ATTEST:

City Clerk



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN
FROM: DAVID GIPSON, CITY MANAGER (DG)
DATE: MAY 12, 2020
SUBJECT: APPOINTMENTS TO THE STEERING COMMITTEE FOR THE DOWNTOWN
AND CBD CORE OVERLAY DISTRICTS STUDY

H3 Studio, the consultants for the Downtown and CBD Core Overlay Districts Study have recommended the establishment of a steering committee for the next phase of the project, which includes the formulation of regulations and guidelines. The steering committee for this study should be comprised of representatives from the Board of Aldermen and the Plan Commission, as well as owners of businesses and properties within the study boundary and adjacent residences.

The Mayor is seeking Board of Aldermen approval of the following appointees:

- Mayor Michelle Harris
- Alderman Richard Lintz (Plan Commission Liaison)
- Alderman Bridget McAndrew (Ward 3)
- Steve Lichtenfeld (Plan Commission Chair)
- Chris Fox (Gershman Commercial Real Estate)
- Kathy Beilein (Old Town resident)
- Jim Fiala (The Crossing)



City Manager
10 N. Bemiston Avenue
Clayton, MO 63105

REQUEST FOR BOARD ACTION

TO: MAYOR HARRIS; BOARD OF ALDERMEN

FROM: DAVID GIPSON, CITY MANAGER
SUSAN M. ISTENES, AICP, DIRECTOR, PLANNING & DEV. SERVICES

DATE: MAY 12, 2020

SUBJECT: APPEAL OF THE ARCHITECTURAL REVIEW BOARD'S DECISION TO DENY ALLOWING TWO EXISTING BRADFORD PEAR TREES TO REMAIN AS PART OF THE APPROVAL OF A REVISED LANDSCAPE PLAN FOR NEW CONSTRUCTION AT 8155 STRATFORD DRIVE

This is a request for an appeal of the April 6, 2020, Architectural Review Board's (ARB) decision to deny the applicants' request to retain two existing Bradford Pear trees as part of the Board's approval of a revised landscape plan for a newly constructed single-family residence at 8155 Stratford Drive. On April 21, 2020, Leigh Szilagyi, who resides on the subject property and was one of the owner/applicants before the ARB, filed an appeal with the City Clerk of Clayton.

On February 5, 2018, the Plan Commission and ARB voted unanimously to approve the site plan, landscape plans and architectural plans for the proposed construction of a new single-family home on the subject site. The approved landscape plan met the City's tree and landscape ordinance. Shortly thereafter the existing structure on site was demolished and construction began on the new single-family home.

In early September 2019, after the completion of construction and the landscape installation, the City Inspector performing a final inspection of the property noted that the landscaping had not been installed in accordance with the approved landscape plan. On September 20, 2019, a letter was sent from the City to the developer indicating that the landscaping had not been installed in accordance with the ARB approved landscape plan. The City requested that the developer provide a revised landscape plan to the City for review reflecting the newly installed plantings. Staff review of the revised plan resulted in a determination that the plan changes reduced the native tree component of the landscaping below the regulatory minimum and the design and reduction of species were so significant the revised plan could not be administratively approved.

The approved - but never installed - 2018 plan called for the removal of three existing Bradford Pear trees, which were then identified as in "poor condition". The plan also called for the installation of additional trees such as: Sugar Maples, Weeping Japanese Maples, three Eastern Redbuds, two Blue Spruces, a Red Maple, and two White Dogwoods. In total, approximately thirteen different plant species that were approved to be installed were not installed and the total number of species was reduced to five. Two of the three Bradford Pear trees that were slated to be removed remained, and the lack of tree planting resulted in a deficiency in the native tree planting requirement.

Because the plan revisions were in violation of the City code, the City staff requested that the developer install the missing trees and remove the Bradford Pear trees or gave the developer the option to take the revised plan to the ARB for their consideration. The property owner (appellant) wanted to keep the existing Bradford Pear trees and opted to file for ARB approval for a revised plan. On April 6, 2020, the ARB reviewed the revised landscape plan and voted to 5-2 to approve the revised landscape plan with the following conditions:

- 1. The applicant shall remove the two Bradford Pears and plant the Red Maple in the northwest corner of the property.*
- 2. The applicant shall plant trees that are listed as Missouri native and shall meet the 33 percent native requirement.*

On April 21, 2020, Leigh Szilagyi, one of the property owners at 8155 Stratford Drive and applicant for approval of the revised plan, filed an appeal with the City Clerk of Clayton to overturn the ARB's decision, specifically as it relates to the ARB's decision to require the removal of the Pear trees. Pursuant to Section 400.230 "Appeals," an aggrieved party may, within fifteen (15) days of the decision for which redress is sought, file with the Board of Aldermen a written request for reconsideration and appeal of any decision of the Architectural Review Board under this Article.

The written request must set forth in a concise manner the decision being appealed, and all grounds known to the appellant as to wherein and why the decision is allegedly in error.

The Board of Aldermen may consider the appeal on the record of the prior decision by the Architectural Review Board or may, at its sole discretion, receive additional evidence in such manner as it deems appropriate in light of the circumstances associated with this application for appeal.

Ms. Szilagyi's (the appellant) statements of appeal are as follows:

1. Appellant's claim: The original approved site plan called for a swimming pool to be developed in the rear yard which was never built. This allowed the appellant the ability to keep the pear trees in the rear yard.

Staff response: Upon the review of the approved site plan, one of the pear trees is located adjacent to the then proposed pool edge and would have been impacted if the pool was built. The other is in the northwest corner of the property approximately 35 feet from the pool and would not have been impacted by the pool construction.

2. Appellant's claim: The Pear trees are healthy; three letters from Certified Arborists agreed they are in healthy and in good condition.

Staff response: When the original application for site plan review was made to the City the condition of all three of the Pear trees was identified as "poor" by the landscape professional that prepared the landscape plan. The trees were slated for removal as part of the 2018 landscape plan that was approved by the ARB. Significant modifications to a City approved landscape plan cannot be made without the re-review and approval of the ARB.

3. Appellant's claim: The trees are on private property, established and healthy and are not the City's concern. In fact, Bradford Pear trees can be seen everywhere in Clayton on private and city property.

Staff response: The Bradford Pear is identified as an invasive non-native tree by the Missouri Department of Conservation. In 2016, the City modified its “Trees and Landscaping Regulations.” These changes, effective upon their adoption, preclude the ability to use Pear Trees in calculating canopy coverage because they are not identified on the City’s approved tree list and because they are identified as a Missouri invasive species. Since the 2016 code changes, when reviewing and approving landscaping plans, the City has historically taken a proactive stance against saving existing Pear Trees in new landscapes. Among other reasons, because they have no “value” per the City Code, design professionals do not include them in proposed City landscapes.

Staff Analysis – The ability to file an appeal

To file an appeal, an appellant must be an “aggrieved party” as that term is defined in the “Definitions” section of the City’s Land Use regulations. Per the regulations, an “aggrieved party” is defined as either:

1. The applicant, **or**
2. One who:
 - a. Suffers a demonstrable and material adverse effect from the decision at issue, **and**
 - b. Is the owner or occupant of property within two hundred (200) feet of the subject property as measured from all boundaries of the subject property.

The appellant is one of the applicants and therefore has established that she is an aggrieved party within the meaning of Sections 405.390 and 405.930 of the Clayton City Code.

STAFF COMMENTS: The Board should consider the application for appeal and all the backup documents and hear such interested parties as may desire to be heard. The Board should thereafter vote to approve, modify or disapprove the conditions imposed by the ARB.